

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

C.R. BARD, INC and BARD	)	
PERIPHERAL VASCULAR, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 21-349 (CFC)
	)	
ANGIODYNAMICS, INC.,	)	
	)	
Defendant.	)	

**PLAINTIFFS' MOTION TO DISMISS AND STRIKE DEFENDANT'S  
INEQUITABLE CONDUCT COUNTERCLAIM AND DEFENSE AND TO  
SEVER AND DISMISS DEFENDANT'S PATENT INFRINGEMENT  
COUNTERCLAIMS**

Pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(f), Plaintiffs C.R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, "Bard"), move to dismiss Defendant AngioDynamics, Inc.'s ("Angio") inequitable conduct counterclaim (Eighth Counterclaim) and defense (Sixth Defense) (D.I. 49). Additionally, Bard moves pursuant to the Court's inherent power and Federal Rule of Civil Procedure 21 to sever Angio's counterclaims asserting patent infringement against Bard (First-Third Counterclaims) (D.I. 49) into a separate action and to dismiss those counterclaims pursuant to Federal Rule of Civil Procedure 12(b)(3) for improper venue or to transfer them to a district where venue is proper. The grounds for this Motion are set forth in Bard's Opening Brief in Support of Plaintiffs' Motion to Dismiss and Strike Defendant's Inequitable Conduct Counterclaim and

Defense and to Sever and Dismiss Defendant's Infringement Counterclaims, filed concurrently herewith.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Jack B. Blumenfeld*

OF COUNSEL:

Steven C. Cherny  
Matthew A. Traupman  
QUINN EMANUEL URQUHART  
& SULLIVAN, LLP  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
(212) 849-7000

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Jack B. Blumenfeld (#1014)  
Brian P. Egan (#6227)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19899-1347  
(302) 658-9200  
jblumenfeld@morrisnichols.com  
began@morrisnichols.com

Lauren Martin  
QUINN EMANUEL URQUHART  
& SULLIVAN, LLP  
111 Huntington Avenue, Suite 520  
Boston, MA 02199  
(617) 712-7100

*Attorneys for Plaintiffs C.R. Bard, Inc.  
and Bard Peripheral Vascular, Inc.*

Jared W. Newton  
QUINN EMANUEL URQUHART  
& SULLIVAN, LLP  
1300 I Street NW, Suite 900  
Washington, DC 20005  
(202) 538-8000

July 7, 2023

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1**

Counsel for Bard certifies that counsel for the parties, including lead and Delaware counsel, discussed the subject of the motion to sever and were unable to reach agreement.

*/s/ Jack B. Blumenfeld*

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Jack B. Blumenfeld (#1014)

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	)	
ANGIODYNAMICS, INC.,	)	
	)	
Defendant.	)	

**[PROPOSED] ORDER**

The Court having considered Plaintiffs' Motion to Dismiss and Strike Defendant's Inequitable Conduct Counterclaim and Defense and to Sever and Dismiss Defendant's Infringement Counterclaims, and the papers submitted in connection therewith,

HEREBY ORDERS, this \_\_\_\_\_ day of \_\_\_\_\_, 2023 that the Motion is GRANTED. Defendant's Eighth Counterclaim is Dismissed and Defendant's Sixth Defense is stricken.

IT IS HEREBY FURTHER ORDERED that Defendants First through Third Counterclaims asserting patent infringement are SEVERED from this action into a separate action and will be DISMISSED pursuant to Fed. R. Civ. P. 12(b)(3) for improper venue or transferred to a district where venue is proper.

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Chief, United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on July 7, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on July 7, 2023, upon the following in the manner indicated:

David E. Moore, Esquire  
Bindu A. Palapura, Esquire  
Brandon R. Harper, Esquire  
POTTER ANDERSON & CORROON LLP  
Hercules Plaza, 6th Floor  
1313 North Market Street  
Wilmington, DE 19801  
*Attorneys for Defendant  
AngioDynamics, Inc.*

*VIA ELECTRONIC MAIL*

John T. Moehringer, Esquire  
Danielle V. Tully, Esquire  
Michael B. Powell, Esquire  
CADWALADER, WICKERSHAM  
& TAFT LLP  
One World Financial Center  
New York, NY 10281  
*Attorneys for Defendant  
AngioDynamics, Inc.*

*VIA ELECTRONIC MAIL*

*/s/ Jack B. Blumenfeld*

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Jack B. Blumenfeld (#1014)